S.B. CIVIL WRIT PETITION NO.2946/2005

Municipal Council, Pali vs. State of Raj. & ors.

Date : 20.10.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. TS Champawat, for the petitioner.

Mr. NS Charan, for the respondent no.3.

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Heard learned counsel for the parties.

It appears that after allotting the land in question to the contesting respondent no.3, when some private individual persons challenged the allotment of land by filing application under Section 80 of the Rajasthan Municipalities Act, the petitioner Municipal Council itself submitted before the District Collector that the land was allotted the respondent no.3 after finding that he is in possession since 1980-1981 and the land in question is falling 86 feet away from the main road and no reason has been shown by aggrieved party for getting the allotment of land cancelled and the same was the argument advanced before the Divisional Commissioner. Now the petitioner, in this writ petition, wants to take just contrary stand and wants to submit that the land which was regularised by Municipal Council itself was wrong. It is also relevant that after allotment of the land, deed has already been registered in favour of the allottee and the finding of fact recorded by the two courts below is that the

petitioner is living in the construction raised over the plot in question.

In view of the above specific stand of the Municipal Council, the Municipal Council has no right to challenge their own action that too after admitting that action to be correct throughout the proceedings before the court below.

Accordingly, this writ petition having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya